

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division

-----X
:
UNITED STATES OF AMERICA, :
:
Plaintiff, :
:
v. : 5:16CR8
:
JASON BRADLEY, et al. :
:
Defendants. : Harrisonburg, Virginia
: March 1, 2017
-----X 10:30 a.m.

TELEPHONIC HEARING
BEFORE THE HONORABLE MICHAEL F. URBANSKI
UNITED STATES DISTRICT JUDGE

APPEARANCES:

GRAYSON A. HOFFMAN, Esquire
Assistant U.S. Attorney
116 North Main Street
Harrisonburg, Virginia 22802
For the United States of America.

AARON L. COOK, Esquire
71 Court Square, Suite B
Harrisonburg, Virginia 22801
Counsel for the Defendant Bradley.

J. LLOYD SNOOK, Esquire
408 East Market Street, Suite 107
Charlottesville, Virginia 22902
Counsel for the Defendant Ryba.

Proceedings recorded by Stenography, transcript
produced by computer.

BRIDGET A. DICKERT
UNITED STATES COURT REPORTER
180 WEST MAIN STREET, ROOM 104
ABINGDON, VIRGINIA 24210
(276) 628-5116

APPEARANCES (Cont.)

LOUIS K. NAGY, Esquire
590 East Market Street
Harrisonburg, Virginia 22801
Counsel for the Defendant N. Taylor.

DAVID L. PARKER, Esquire
333 Neff Avenue
Harrisonburg, Virginia 22801
Counsel for the Defendant E. Taylor.

1 (Proceedings commenced at 10:30 a.m.)

2 THE COURT: Good morning. This is Judge Urbanski. Is
3 the clerk on the phone?

4 THE CLERK: Yes, Your Honor, I am.

5 THE COURT: Would you call the case, please.

6 THE CLERK: 5:16CR8, *United States of America v. Jason*
7 *Bradley, et al.*

8 THE COURT: Who do we have on the phone for the
9 Government?

10 MR. HOFFMAN: Good morning, Your Honor. This is
11 Grayson Hoffman. I also have Gina Palmero from our office on the
12 line.

13 THE COURT: Okay. For the defendant Bradley?

14 MR. COOK: This is Aaron Cook.

15 THE COURT: Good Morning. Is Mr. Bradley on the phone?

16 MR. COOK: Yes, Your Honor.

17 THE COURT: Okay. How about for defendant Deborah
18 Ryba?

19 MR. SNOOK: Lloyd Snook here for Deborah Ryba. She is
20 also on the line.

21 THE COURT: Good morning. How about for Mr. Edward
22 Taylor.

23 MR. PARKER: Dave Parker is on the line, Your Honor.

24 THE COURT: Is Mr. Taylor on the line?

25 THE DEFENDANT E. TAYLOR: Yes, I'm here.

1 THE COURT: Okay. How about for Nayna Taylor?

2 MR. NAGY: Yes, Your Honor, I'm on the line and
3 Mrs. Taylor responded to your question.

4 THE COURT: I have read these e-mails that were sent to
5 me late yesterday afternoon. Let's see what the current status
6 is. Mr. Hoffman, would you like to update the court, please?

7 MR. HOFFMAN: I would, Your Honor. I, I thank you for
8 holding the hearing. I requested this hearing yesterday because
9 around 4:15 it became very apparent that the court had incomplete
10 information before it. So, I thought it would be important that
11 the court know some additional facts before the court makes its
12 decision about going forward.

13 So, let me back up to Monday, the last court hearing we had.
14 As the court will recall, the court set yesterday's 5:00 p.m.
15 deadline to find a lab for the independent testing that
16 defendants Bradley and Ryba had requested. Mr. Cook had no
17 obligation -- excuse me -- no objection to the United States
18 assisting in his efforts to find a lab. We talked about that
19 before, and I reconfirmed that with him.

20 So, we both set out to find a lab, if possible. After our
21 hearing I started contacting labs right away, Monday afternoon,
22 and into the evening, into late evening. Mr. Cook and I stayed
23 in touch. I kept him apprised of our progress along the way.

24 The first ray of hope that we had was Monday afternoon. I
25 made contact with a lab in Colorado called, I believe, Rocky

1 Mountain, who said that they thought that they could do the
2 analysis, and they could do it in time.

3 I relayed this information to Mr. Cook. Again, we were
4 staying in touch. Mr. Cook explained that he wanted to have a
5 private conversation with the lab because he, he had an idea of
6 another substance or substances that might be in the exhibits,
7 and he wanted to make sure that the lab had the proper standards
8 in place in order to test for those potential other chemicals.

9 I offered to relay that information to the lab. Mr. Cook
10 said, understandably, he wanted to keep that information private.
11 He wanted to have a direct communication with the lab and share
12 contact information with them.

13 He contacted the lab. Shortly thereafter -- again, this is
14 Monday, 4:00, 5:00 -- the individual from the Rocky Mountain Lab
15 contacted me and said, "Sorry, we're not going to be able to do
16 the test in time before the trial. The additional chemicals, we
17 don't have the standards for, and we'd have to request the
18 standards. It will take a couple of weeks."

19 I relayed that information back to Mr. Cook on Monday
20 evening. I continued contacting additional labs Monday evening
21 late into the night. I was communicating with one lab at 11:30.
22 We were working hard, and we were striking out.

23 Let's move to yesterday. Yesterday morning, and most of the
24 day, we spent on the lab issue, calling lab after lab after lab.
25 I was contacting labs, my intern was cold calling labs. We were

1 striking out. We were striking out. Mr. Cook and I talked
2 throughout the day updating one another.

3 Importantly, Your Honor, during these conversations with
4 Mr. Cook there was never a mention of any additional special
5 testing requirements.

6 I'll also say that because we kept striking out I called
7 Mr. Cook and I asked Mr. Cook if we could consider using a
8 different Government agency lab like a Virginia state DFS lab or
9 FBI lab. Mr. Cook said he would check with his client and call
10 me back with an answer. I never heard back from Mr. Cook on
11 that.

12 I continued calling labs, and then finally around noon
13 yesterday I got in touch with Cayman Chemical in Ann Arbor,
14 Michigan who said they could do it, and who said they could do it
15 in time.

16 I immediately notified Mr. Cook with a text. I think I may
17 have tried to call, Mr. Cook was very busy yesterday, but I
18 provided contact information, again, to Mr. Cook so he could
19 contact them and have that conversation they, that he had earlier
20 to make sure they had the right standards in place.

21 About an hour later I heard that Mr. Cook had scheduled a
22 3:45 appointment with Cayman to talk with them. I thought that
23 was a little later, so I called Mr. Cook again to see if we could
24 accelerate it. We were almost out of time.

25 At that time Mr. Cook and I could not get in touch. I

1 called the Cayman Lab again, and they explained to me that the
2 3:45 appointment, as they understood, was just to discuss
3 administrative and process issues, payment, how the whole testing
4 process would work. She explained to me that she could tell
5 Mr. Cook right at that moment if they had the ability to do the
6 testing for his special chemical or chemicals right on the spot.

7 I tried to get back to Mr. Cook to communicate to him. His
8 staff said he wasn't available. I texted him. I didn't hear
9 back from him. I sent him another texting: "We're almost out of
10 time." I called his office a couple of times. He and I managed
11 to get on the phone right at 3:45 just as his 3:45 with Cayman
12 Chemicals was about to begin. He said he'd call me back when I'm
13 done with them.

14 At 4:05, less than an hour from the deadline, I received a
15 call from Cayman Chemical that said, "I'm sorry, things have
16 changed. We can no longer do your testing in time." I said,
17 "Excuse me? What just happened? Four hours ago you said you
18 could do it." They said, "Well, in our conversation with
19 Mr. Cook just now he just announced a new testing requirement
20 called quantitative analysis which is going to take us another
21 few days. It would take another few weeks to perform this."

22 I hadn't heard that term before. I said, "What is
23 quantitative analysis?" The scientists on the phone explained to
24 me it's akin to purity. They were careful to say it's not
25 exactly purity; it's a little more complicated than that. But

1 it's part per unit, one part per every 50 milligrams, or
2 whatever.

3 I told him, of course, this additional testing requirement
4 for quantitative analysis was a total surprise to me. They said
5 it was a total surprise to them, of course. I completed the
6 call, I hung up, and then I saw Mr. Cook's e-mail to the court
7 simply saying Cayman couldn't do the requested analysis, without
8 any additional facts.

9 So, I wanted to call the court and set this up to explain
10 and share with the court all these additional facts, and make
11 sure that the court understood that this was a total surprise to
12 everyone. There had never been mentioned by Mr. Cook in any of
13 our conversations about this extra quantitative analysis. Mr.
14 Cook and I had, we were talking directly, we had great rapport,
15 the lines of communication were open, we were working well
16 together. But then this just kind of rolls in at the last
17 second.

18 I also wanted to point out to the court, I think it's
19 important to understand that this quantitative analysis stuff is
20 rare in our cases. Because it doesn't make a difference. The
21 only time in drug cases we ever request a purity-type analysis is
22 in a meth case, or as the court knows, the Code, when it comes to
23 meth cases, differentiates, you know, standards and mandatory
24 minimums based on actual meth versus a mixture and substance, so
25 purity is relevant.

1 In these cases, in these cases purity is not relevant. I
2 mean, if a substance tests as .0001 percent pure, or 100 percent
3 pure, it doesn't make a difference under the Code. It's totally
4 irrelevant.

5 I mean, so, given the fact that there was never any mention
6 of this new quantitative testing requirement until inside of an
7 hour of the deadline, and the fact that there was, there's no
8 relevance at all to the case, in our opinion shows that this is,
9 this is another transparent attempt to stall and to delay the
10 trial.

11 The court set a 5:00 p.m. deadline to find a lab that could
12 do the analysis. We moved heaven and earth for 24 hours to meet
13 that deadline. And inside of an hour there's a surprise
14 requirement announced on everyone.

15 Your Honor, I think we've met the deadline. We found the
16 lab, the lab can do the test, so we should have the trial on
17 Monday.

18 THE COURT: Okay. Thank you for that summary,
19 Mr. Hoffman. I suppose it's appropriate to hear from Mr. Cook.
20 Mr. Cook?

21 MR. COOK: Thank you. Thank you. First of all, I
22 appreciate Mr. Hoffman's perspective, and certainly I can
23 understand how much of what he's saying he believes to be
24 accurate. If I can just fill in the court, first of all to say
25 this is an independent analysis, and we have our own reasons for

1 wanting this analysis, for the way it would be, what we would be
2 looking for. I don't feel free to go much further than that
3 because, because it's pertinent to our defense, which I don't
4 think the Government is yet fully aware of.

5 But, so, we were looking for labs, called a number of labs,
6 followed up with labs that Mr. Hoffman handed off to me and, you
7 know, we drilled down on what each lab could do for us in an
8 expedited fashion. A lot of times they said, "We can't make the
9 ID that fast." The ones who could we had conversations about
10 quantitative analysis we believe are pertinent to our defense,
11 and I did not talk to Mr. Hoffman about that because that's our
12 defense.

13 Then he's saying he was surprised. I can see why it was a
14 surprise to him, but the lab that I've been talking to over the
15 last day, if they were in the ball park we also talked about
16 other chemicals, and whether or not they could do a quantitative
17 analysis. So, it's not, it's not -- it's been discussed with
18 other labs. I think it was just a surprise to Mr. Hoffman.

19 I'll say that we made this motion a couple of weeks ago
20 whenever we found out that the drugs were coming from Hong Kong
21 this weekend. Since focusing on this shipment, I feel even more
22 stronger that this analysis is important to the defense, to the
23 defendants, to at least one of the defenses that we intend to
24 present.

25 And I would represent to the court this is not made for

1 purposes of delay; this is necessary for what could be our
2 defense to the charge.

3 So, as far as what happened yesterday afternoon, it was
4 around the time when Mr. Hoffman contacted me. I had a phone
5 number, called her up, she said Roxanne was the person I needed
6 to talk to, and Roxanne was not available until 3:00. I had a
7 3:00 appointment. I said, "Can we do it at 2:30?" She said,
8 "No, Roxanne can't be available until 3:00." I said, "I should
9 certainly be done with my appointment by 3:30," and she said,
10 "Well, how about we schedule it for 3:45?" I said, "That would be
11 fine."

12 That's how the 3:45 appointment came about. It was not
13 nefarious or structured by me. I was prepared to, to have this
14 conversation with them at noon, or 12:30, whatever time it was
15 that I got ahold of Donna initially.

16 When I called in, they called me at 3:45, or actually, I'm
17 not sure who all the -- we had a further discussion about the
18 chemicals, and the quantitative analysis to what I was looking
19 for. I, of course, asked them not to provide the details of that
20 to the prosecutor but, you know, because it's pertinent to our
21 defense, and it sounds like they didn't, which I appreciate.
22 That's, I guess, where we are. Do you have any questions, Judge?

23 MR. HOFFMAN: Your Honor, if I may respond?

24 THE COURT: Sure. Go ahead, Mr. Hoffman.

25 MR. HOFFMAN: As Mr. Cook has just made plain, it is

1 not tipping his hand in disclosing secret defense strategy to
2 simply say we're looking for quantitative analysis. It has been
3 since the pretrial conference on, what, two weeks ago where we've
4 been talking about this independent analysis, and we've been
5 trying to contact labs. It would not, it would not have tipped
6 the hand of the defense, whatsoever, to say, "Hey, when you're
7 talking to the lab let's all make sure they can do a quantitative
8 analysis in time." I mean, he shared information with me, "Hey,
9 let me have a private conversation with them to make sure they
10 have the standards," but there was never even a casual mention
11 of, "We also want to do a quantitative analysis." This happened
12 at the very last second. It was a complete surprise. Your
13 Honor, it will not be relevant at trial.

14 THE COURT: Mr. Cook, did you want to respond to that?

15 MR. COOK: Again, it may have surprised Mr. Hoffman,
16 but when we talked last week we were talking about quantitative
17 analysis. From his perspective I think he's thinking that I
18 introduced this yesterday afternoon for the purposes of delay.
19 And that's just not the case at all.

20 THE COURT: Okay. Let me -- I appreciate each side's
21 perspective. Before I ask other counsel to weigh in on this
22 issue if they want to, Mr. Cook, I have a couple of questions for
23 you.

24 MR. COOK: Yes, sir.

25 THE COURT: One being did you get an estimate from

1 Cayman Labs about how long it would take to do a quantitative
2 analysis?

3 MR. COOK: On one of the chemicals they felt they could
4 complete it, they could probably complete it by trial. On
5 another one they indicated that they could not complete it by
6 trial.

7 THE COURT: Okay. Did they indicate if they could
8 complete it within a week?

9 MR. COOK: They didn't know. They had to develop a
10 method --

11 MR. HOFFMAN: Your Honor, I discussed that with them.

12 THE COURT: Hold on, Mr. Hoffman. I'll give you a
13 chance to respond. Go ahead, Mr. Cook.

14 MR. COOK: They couldn't give me a time estimate, and
15 they couldn't give me a price on that, as well. But --

16 THE COURT: Did you -- I'm sorry, go ahead, Mr. Cook.
17 Okay.

18 MR. COOK: I'm done.

19 THE COURT: How many chemicals are you having tested?
20 Two? Can you tell me that?

21 MR. COOK: At least three. My conversations with other
22 labs, we've actually talked about four.

23 THE COURT: At least, at least three, maybe four.

24 Well, I'm not asking you to disclose your defense. I understand
25 you and the Government may have a different view as to the

1 relevance of this evidence, and as to whether or not this, this
2 quantitative analysis might be necessary, or not.

3 You know, I understand what Mr. Hoffman is saying about, you
4 know, the general relevance to this issue about whether or not
5 there is a controlled substance found. I mean, generally it
6 doesn't matter because it's a mixture or substance. But I also
7 remember something that, that Mr. Snook said at the hearing that
8 we had on Monday, that this issue may relate to the existence of
9 a conspiracy in knowledge. I think Mr. Snook said something
10 about this, that this goes to the question of what they thought
11 they were getting.

12 Of everybody on the phone I'm the least knowledgeable of the
13 facts in this case because I have not seen the discovery,
14 obviously, and so, but we want to make sure at the end of the day
15 that justice is done, and part of justice is making sure that
16 trials are held when they're scheduled.

17 This case was indicted in July of 2016, Nanya and Edward
18 Taylor had initial appearances on July 28th, Bradley had their
19 initials on August 11th, case was set for trial on October 17.
20 On August 24th Ms. Ryba moved for a continuance and the case was
21 continued until March 6th. The issue of continuing that trial
22 date arose because not due to the -- not blaming anyone -- but
23 due to the fact that some of these substances were across the
24 world in Hong Kong and needed to get to the United States. I can
25 only imagine the heaven and earth Mr. Hoffman has tried to move

1 to get these substances here, and it sounds like over the last
2 few days the Government has, and defense has tried to work hard
3 to meet this deadline. I greatly appreciate this.

4 My question is this. What if we simply said, all right,
5 let's -- I mean, we don't need this testing, seems to me, for the
6 first day of trial. What if we say okay, get, get your testing
7 done by -- the Government is going to take at least a week to put
8 it's evidence on -- get the testing done next week, and have each
9 side not mention it during opening statements, and just deal with
10 it, you know -- I understand they may not be able to get it done
11 by day after tomorrow, but if they got another week, it seems to
12 me, perhaps they ought to be able to get it done.

13 What, what my sort of compromise solution is, get it done
14 by, you know, the end of the first week of trial and, you know,
15 get this analysis done on these chemicals by the end of the first
16 week of trial, neither side mention it in opening and, and just
17 once you get that evidence it should be available in time for the
18 defense to use in its case-in-chief. What about that, Mr. Cook?

19 MR. COOK: My initial reaction is this. This testing
20 will dictate what direction we go with the defense, which of
21 course will affect how we question witnesses, what we talk about,
22 what we stay away from in our cross, in opening. And like I said
23 earlier, you know, two weeks ago I hadn't thought much about the
24 significance of this testing because at the time I thought this
25 stuff wasn't coming. But then I thought about it, it's really

1 going to impact what direction we had with, with at least the
2 second part of the conspiracy.

3 So, I would be concerned about starting the case without
4 knowing what my evidence was going to be.

5 THE COURT: Okay. Let me ask you this other question,
6 then.

7 MR. COOK: Yes, sir.

8 THE COURT: I have two other lines of inquiry that I
9 want to ask you about, one being your indication that it only
10 affects part of the alleged conspiracy, all right? So, what part
11 of the conspiracy is this testing relevant to?

12 MR. COOK: I think the other day when we were in court
13 we were talking about two time frames in the conspiracy, one
14 being before certain substances were scheduled, and in the second
15 time frame certain substances were scheduled. This is a very
16 keen piece of evidence in regard to that second, what I call the
17 second part of the conspiracy, after the --

18 THE COURT: Does this deal with a-PVP or m-PVP?

19 MR. COOK: A-PVP.

20 THE COURT: Okay, a-PVP, after it's scheduled, that's
21 the aspect of the case it relates to, that's what you're telling
22 me this testing relates to?

23 MR. COOK: Yes, sir.

24 THE COURT: If the Government were to decide we want to
25 go forward on Monday with all charges, and dismiss the charges as

1 to a-PVP, for the time period, then this testing would be
2 irrelevant to it?

3 MR. COOK: I think the answer is yes. But also, I
4 mean, it's going to go to -- I don't want to go into it. It's
5 not like purity of crystal meth, for example, where there's a
6 statutory issue. There's other issues involving Mr. Slouder
7 (phonetic), for example, who is one of the witnesses -- anyway, I
8 don't want go further than that, Judge, I guess, here in open
9 court.

10 THE COURT: Okay. I understand, I don't know what the
11 nature of your defense is, and I understand your, your interest
12 in defending your client in an appropriate manner. I was just
13 asking the question to see whether or not should, should the
14 Government determine that its interest in going forward outweighs
15 its interest in this small part of the case, that the Government
16 could simply drop those charges, eliminate this issue and we go
17 on Monday. That was just something that was sort of, my sort of
18 off the top of my head stream of consciousness thought.

19 The other, the other question I have for you, Mr. Cook, is
20 are there -- let me ask Mr. Hoffman, let me ask you this
21 question. Are there other substances in this case other than, I
22 mean other substances, other than the Hong Kong sample we've been
23 talking about that the Government has, has had tested and intends
24 to offer evidence about?

25 MR. HOFFMAN: Yes, Your Honor.

1 THE COURT: Okay. Well, then, Mr. Cook, have you
2 requested this quantitative analysis of those substances?

3 MR. COOK: No, sir.

4 THE COURT: Well, I guess my question is why are these
5 different, then? If you haven't requested the analysis of the
6 other substances does it suggest that this is all part of an
7 attempt to delay the case, and as opposed to getting to your
8 defense?

9 MR. COOK: No, sir. There's reason why the Hong Kong
10 substances are different, I should say. I guess -- yeah, again,
11 I don't want to say anything to the detriment of my client's
12 defense.

13 THE COURT: Okay. But your position is, as an officer
14 of this court, that there is a difference between the Hong Kong
15 substances and these others, and that there might be a different
16 reason that's material here as to why you want these Hong Kong
17 substances tested and why you need a quantitative analysis. That
18 is what you're telling me?

19 MR. COOK: Yes, sir.

20 THE COURT: Okay. Let's hear from any other counsel
21 who want to weigh in on this issue? Mr. Snook?

22 MR. SNOOK: Judge, the first thing I would say to you
23 is getting a quantitative analysis is not an issue in a
24 controlled substances analogue case. The cases I have tried when
25 there has been an independent lab doing the testing, and of

1 course in other cases where they were testing for the presence of
2 XLR11 in the Ritchie (phonetic) case, we would get a report that
3 would say 97 percent XLR11, three percent something else. In
4 fact, that wound up in our case in Norfolk to be a problem
5 because the lab would report 99.7 percent XLR11, and .3 UR144,
6 and the Government was pursuing a theory that they were
7 intentionally distributing both XLR11 at 97.4 percent and UR144
8 at .3 percent when the experts will tell you when XLR11 is
9 getting made, it is getting made in a way that produces a certain
10 residue of UR144. So, that one could certainly defend by saying
11 even if I intended to possess this XLR11, I did not intend to
12 possess UR144. I say this without having any knowledge at all --
13 so, that's where we look at the purity question. We want to see
14 what else is in there. The tests will, as I understand the way
15 the Government's test comes back, if there's any a-PVP in there
16 it will come back as, back as positive for a-PVP even if it's
17 only a very small percentage of a-PVP and, in fact, the bulk of
18 what is, there is an entirely different chemical. If that's the
19 situation, if we're getting a chemical that is, say, 99 percent
20 completely different substance, and one percent alpha-PVP, that
21 presents a defense for us of we didn't intend to be getting
22 alpha-PVP; we intended to be getting the other chemical. The
23 chemicals that have been discussed, that we have lab reports on
24 or suggestions from e-mails the parties might have been looking
25 to distribute, some of which are controlled substances, some of

1 which are not, and some of which are not either arguably
2 controlled substances analogues, I would add, are all things that
3 possess certain chemical characteristics in common, so that one
4 could imagine if the, if the test results come out a certain way
5 now we've got a defense of this other chemical, I'll just call it
6 ABCD, that we were intending to distribute ABCD, and son of a
7 gun, it turns out in the process of manufacturing ABCD they wound
8 up manufacturing some alpha PVP along the way, but that wasn't
9 the intent.

10 My point being the quantitative analysis allows for a very
11 different discussion, and I say this without having coordinated
12 efforts in this comment with Mr. Cook, I'm not sure this is
13 necessarily responsive to where he's going, or necessarily giving
14 away any intent that he has, but certainly as I look at the
15 quantitative analysis that has been typical of the private labs
16 that we've received in controlled substance analogue cases, and
17 the kinds of discussions that we've had about defenses that have
18 flowed from that, I, I very much would like to see the
19 quantitative analysis, as well.

20 Furthermore, as to the court's suggestion, let's go ahead
21 and get started with the trial and see what happens, number one,
22 if the result doesn't come in do we end up with a mistrial, do we
23 end up with charges getting dismissed, or what happens there;
24 number two, I'll tell the court there have been a couple of times
25 in my legal career where I have had the situation where evidence

1 was being developed as the trial was going on, and expert
2 opinions were being developed as the trial was going on, and it
3 is not a good way to try a case, certainly for the defense, and I
4 can't imagine that it is conducive to getting a fair and accurate
5 result.

6 THE COURT: Well, if quantitative analysis is so
7 important to the defense then why have these other substances not
8 been subject to, the other ones that the Government has, has been
9 seized or had possession of, not the subject to quantitative
10 analysis, and we're only talking about the Hong Kong substances,
11 if this is such an important part of the defense, why is it we're
12 only doing it with the Hong Kong stuff at the last minute,
13 Mr. Snook?

14 MR. SNOOK: Judge, I think the answer, and I'll have to
15 be a little bit uncertain in this respect, I'm not 100 percent
16 sure that I remember what analyses have been done on other
17 products, but we've got basically, as I understand it, basically
18 three kinds of analyses that have been done. The first analysis
19 are, or two different sets of chemicals that have been analyzed,
20 the first would be anything that was seized in the 2011, 2012
21 time frame when the chemicals were arguably analogues, and I'll
22 just say that at this point the, the defense that I've been
23 thinking about along those lines hasn't been dependent upon that
24 kind of analysis. The second is there are, as I understand it
25 there are two types of chemicals that were, or two types of

1 seizures in the 2014, 2015 time frame, the first being chemicals
2 that were seized, as I understand it, from Slouder, or I guess it
3 was from, there's a fellow here in, whose name is escaping me
4 now, who had some stuff seized in October of 2014 where I think
5 that we're, it's clear that that wasn't even stuff that could
6 possibly have come from our clients, and so the stuff that does
7 clearly have a possibility under the Government's theory coming
8 from our clients is the stuff from Hong Kong. So, the
9 quantitative analysis wouldn't be relevant to the second,
10 certainly, arguably not to the first in the way that I'm thinking
11 about in a defense. That's why, from my perspective. I don't
12 know what Mr. Cook's perspective is.

13 THE COURT: All right, Mr. Snook. Like I said, of all
14 the people on this conference call I'm the only one who hasn't
15 seen the discovery. I appreciate the, the benefit of all
16 counsel's perspective. Let me ask to hear from Mr. Nagy, and
17 then let me ask to hear from Mr. Parker, and then I want to
18 circle back to see if the Government has got a response, and then
19 give everybody a chance to weigh in. Mr. Nagy?

20 MR. NAGY: Your Honor, I mean this is a fight that
21 frankly I am not really involved in all that much. I mean, I
22 certainly would be curious to see what the results of the testing
23 that Mr. Cook and Mr. Snook have been asking for are. I
24 personally don't know how much relevance that is going to have to
25 my case, maybe none. I just don't know.

1 I will tell the court at this point that the case was
2 scheduled for March due in, in large part to my client's demands
3 for a speedy trial, and since that time period we have released
4 that, so at this point I just, we defer to the court, whatever
5 the court feels is appropriate.

6 At this point -- I can tell the court it is important to my
7 client, at this point, to keep everything together. For that
8 reason she is willing to not only waive speedy trial, but agree a
9 continuance is proper if the court deems that it's necessary, and
10 I'm just going, going to leave it at that.

11 THE COURT: All right. Mr. Parker?

12 MR. PARKER: Your Honor, I'd echo Mr. Nagy's thoughts
13 on the subject. We're kind of in the same boat here with our
14 clients. I would add that, you know, the trial when we first
15 scheduled this, as Mr. Nagy said, was largely scheduled in March
16 due to our clients' refusal to waive speedy trial. We have done
17 that, of course, since then, and have different reasons for that.
18 So, you know, in regard to the trial being in March, to be
19 honest, we have no objection since speedy trial has been waived.

20 I would also state that we continue to get this new
21 discovery on this case. You know, up until, you know, a week or
22 so before trial. This evidence just came in from Hong Kong,
23 pretty much, a few weeks ago. It's very difficult, I mean, the
24 Government has had a long time to get this stuff here, and I know
25 Mr. Hoffman has tried to do this, but as Mr. Nagy, he told the

1 court the other day, we're trying to prepare for a three week
2 trial, and schedule things all around that, and do things, I
3 mean, we, and we get new discovery and new evidence, and it
4 really puts a huge burden on us.

5 THE COURT: Mr. Parker, when I went back this morning
6 and reviewed the docket, and looked at the minute sheet done by
7 the clerk when, when we had a teleconference on September 13th of
8 last year, the, the clerk said looks like the best time to try
9 this case is going to be the summer of 2017 with everybody's
10 calendars. And it was over the objection, it was Mr. and
11 Mrs. Taylor who were saying, "No, no, we need to go sooner than
12 that." And so your, your recollection of that, and Mr. Nagy's
13 recollection of that are consistent with what the minute sheet
14 said from that time.

15 You know, I do not want to continue this case. In my view,
16 continuance of the case with, with multiple defendants only makes
17 matters more complicated, leads to more delay. And, I mean, if
18 that isn't apparent from the Alvarado case that Mr. Cook is
19 counsel to, boy, that case has been continued a number of times
20 due to no one's fault, but just unforeseen circumstances
21 including the, you know, the health of counsel, family issues
22 that no one could have predicted and that were causing
23 difficulty, changes of counsel, just all kinds of things, and I'm
24 really reluctant to continue this case because A, the case was,
25 you know, the case has been pending since last year; B, I'm

1 concerned that if this case gets continued that someone is going
2 to want to continue it again, and I am not going to agree to
3 that, I am not going to allow that. Even if someone has a
4 dispute with counsel, I don't want to continue this case.

5 I think -- the other thing I am mindful of is the heaven and
6 earth the Government has been moving to get the witnesses here.
7 I'm seeing the defense perspective in this case, but the
8 Government, you know, all these witnesses are ready to go, people
9 from all over the place, and they've spent an inordinate amount
10 of time and money to get this case ready for trial, and I am
11 mindful of that. And I, you know, these cases are set, and I
12 don't want to continue this case. I really don't.

13 So, let me hear from -- that's my perspective. And, you
14 know, these cases are set for trial. Continuances don't do
15 anybody any good, in my experience, other than delay justice.
16 All right, Mr. Hoffman, let's hear what you have to say in
17 response to what counsel have said.

18 MR. HOFFMAN: Your Honor, just a moment ago the court
19 asked a question that was right on point. The court asked the
20 defense, "Why haven't you requested quantitative testing on the
21 other exhibits?" I want the court to understand that we have
22 drug exhibits from post scheduling of alpha-PVP, this second
23 phase the defendants are talking about. We have multiple drug
24 exhibits from around this same period of time, and they have not
25 requested quantitative analysis on those exhibits. The, and

1 those are post scheduling of alpha-PVP. And they have alpha-PVP
2 in them. And the evidence suggests that those were part of this
3 same five kilogram order that was placed at the end of '14 and
4 early '15.

5 As I described a couple of days ago in court, our evidence
6 suggests, and we believe, that this five kilogram order came to
7 the United States in pieces. Some of the parts made it; some of
8 them didn't. The parts that made it came here post scheduling of
9 alpha-PVP. We've turned over all those labs. They did not have
10 quantitative testing, but the defense has those, the defense has
11 not requested quantitative testing on any of them. The only
12 quantitative testing that they've requested was this surprise
13 request an hour before the deadline yesterday just on these Hong
14 Kong exhibits that we haven't even seen yet.

15 So, I think it provides context to the nature of their
16 request, and why they're requesting it. I don't believe I would
17 have the same concerns if they would have made, made a blanket
18 request for quantitative analysis testing on all of the post
19 scheduling alpha-PVP scheduled exhibits that we have on the
20 table, but, but they did not.

21 THE COURT: Mr. Hoffman, are you finished?

22 MR. HOFFMAN: That's the one point I wanted to make,
23 Your Honor.

24 THE COURT: That thought occurred to me, too.

25 MR. HOFFMAN: So, we've got the other exhibits that are

1 on the table, the labs don't show this special quantitative
2 analysis was done.

3 The other point I would make is -- well, I'm just going to
4 leave it there. I think that, I think that the facts speak for
5 themselves.

6 THE COURT: Thank you, Mr. Hoffman. Someone was trying
7 to say something.

8 MR. NAGY: Judge, I'm going to throw, I'm going to
9 throw this out there, and I will preface this by saying I've had
10 no conversation about Mr. Cook's strategy or what he, what he is
11 planning to do as a defense, but as I am sitting here listening
12 to this, without -- I don't want to hurt anybody's case,
13 including my own -- but without getting into it, as we've been
14 talking, I think I see where Mr. Cook may be going with this.
15 And with all candor, if he is correct and if he is right, it is a
16 defense that I think could potentially be relevant to my case, as
17 well, that I had not really considered before.

18 But as we're sitting here, and as Mr. Hoffman was making
19 certain statements about the fact that the Government has not
20 tested for, you know, just merely for presence and not for
21 volume, or anything of that nature, it just strikes me that I may
22 very well understand Mr. Cook's interest, as well as Mr. Snook's
23 interest, and it does pose an interesting perspective that I had
24 not considered before. I will throw that out there. I cannot
25 sit here and tell the court that I've given this any thought

1 other than what we're saying right now, but I'm listening to the
2 two parties banter back and forth about whether, why it is or is
3 not relevant. I'm just going to go out on a limb and say I will
4 tell the court that I, I believe I understand at this point where
5 Mr. Cook is going, and I believe it could potentially present a
6 defense for my client depending on whether or not I'm correct.

7 I haven't talked to Mr. Cook about that at all.
8 Nevertheless, I just wanted to make sure that the court
9 understood, as I understand the arguments of the parties, there
10 may be some benefit to seeing this out, and seeing what the tests
11 come out to, as far as that can be done. I don't have a stake in
12 that, but I will go on the record and say I think I understand
13 that.

14 MR. HOFFMAN: Your Honor, we are four days before
15 trial, and defense counsel is coming up with new ideas and
16 strategies. We are four days before trial. I mean, any of this
17 could have been considered for the last, what, eight months?
18 We're on the eve of trial.

19 THE COURT: Okay.

20 MR. HOFFMAN: If the defendants can't, if the
21 defendants can come in days before trial and say we've got a new
22 idea, we've got a new strategy, we need a continuance, and the
23 court grants that, that is an awfully slippery slope going
24 forward, an awfully slippery slope.

25 THE COURT: Well, Mr. Hoffman, I appreciate that

1 argument. But all of this, this entire deal is caused by the
2 fact that these Hong Kong chemicals didn't arrive into the United
3 States until about a week before trial. So, you know, this is
4 not --

5 MR. HOFFMAN: We agreed to not introduce them, Your
6 Honor. We appreciate that. We've agreed to not even use them.

7 THE COURT: I understand that, but the defendants feel
8 as though they're important. As I've said three times, with
9 regard to the chemical analysis and the evidence, all those I've
10 tried to, I understand the issue with regard to the chemical
11 analysis and the evidence, you've got a much better feel for that
12 than I do.

13 Mr. Cook, I want to go back to the question I raised that I
14 thought Mr. Hoffman fairly artfully picked up on. If this is so
15 doggone important to you, this quantitative analysis, why have
16 you not tested those other substances if, indeed, some of those
17 other substances are post, post scheduling of a-PVP and come from
18 the same shipment that we're talking about from Hong Kong? Come
19 on.

20 MR. COOK: Well, we don't think there's a distinction.
21 We have a defense to those substances that differ. The Hong Kong
22 stuff, there's evidence that my client was in Asia at the time
23 and is closely tied to the Hong Kong package. That makes a
24 difference than the evidence tying the other substances to my
25 client.

1 Your Honor, I don't know if that's clear. But this is close
2 in geography to where they think my client was at the time, which
3 places this not in his hands, but closer to his hands, and it's,
4 it's different.

5 Now, that being said, maybe we should go back and
6 quantitatively analyze the others. At this point I didn't think
7 that was necessary until, because the Hong Kong, the Hong Kong
8 packages, I didn't think, would be here for trial. So that, that
9 changed things for us.

10 THE COURT: All right, Mr. Snook, do you want to say
11 something about this?

12 MR. SNOOK: The only thing I can think of to point out,
13 Judge, is if I understand the evidence correctly the Government
14 has other samples or other substances that they have seized that
15 they would argue are from this same transaction, you know, from
16 the fall of 2014, early 2015, they were not, in fact, the same
17 shipment. And so when there is a, there was a representation
18 made at some point it was the same shipment, that is not true. I
19 believe the Government's evidence would be that the transaction
20 would be, the transaction was to be completed in a series of
21 different shipments, some of which apparently made it through,
22 some of which apparently did not. So, how they -- because our, I
23 think our defense would be we weren't setting this up at all, the
24 stuff had actually got there, the purity of it, and so on, is not
25 really quite the issue. That's the only thought I would add.

1 MR. HOFFMAN: This is Mr. Hoffman. I want to be clear
2 it has not been our position -- I don't believe I've ever said
3 that it was one shipment. The evidence certainly makes it appear
4 that it was one order, and I said before that it came in numerous
5 shipments, some of them got here, we have them in evidence, and
6 the defense has not requested a quantitative analysis on those.

7 THE COURT: Right. I appreciate that distinction,
8 Mr. Hoffman. I don't think you've ever suggested that it was the
9 same shipment. In fact, it couldn't be from the same shipment
10 because this shipment was seized in Hong Kong. But it was, but I
11 do understand the argument that it was from the same order, okay?

12 Now, am I correct, and I just want to hear from all counsel
13 and their clients right now on the record that they are
14 requesting a continuance to June 21st, and that they are waiving
15 any objection with regard to the, the right to speedy trial under
16 the Sixth Amendment or under the Speedy Trial Act. Mr. Cook, is
17 that correct for your client?

18 MR. COOK: Yes, on behalf of Mr. Bradley, yes, sir.

19 THE COURT: Mr. Bradley, do you understand what I'm
20 asking?

21 THE DEFENDANT BRADLEY: Yes, Your Honor, I agree.

22 THE COURT: You're agreeing you want this case
23 continued to, to June?

24 THE DEFENDANT BRADLEY: Yes, Your Honor.

25 THE COURT: And, and you are waiving any contention you

1 have of a violation of, a violation of the Sixth Amendment or the
2 Speedy Trial Act? You understand that?

3 THE DEFENDANT BRADLEY: Yes, Your Honor.

4 THE COURT: Mr. Snook?

5 MR. SNOOK: Yes, Your Honor, we agree to waive speedy
6 trial, and we agree to the June 21st date.

7 THE COURT: All right. Ms. Ryba, do you understand and
8 agree to that?

9 THE DEFENDANT RYBA: Yes, Your Honor, I do.

10 THE COURT: Now, if I continue this case because of
11 this chemical testing stuff, I am not going to continue it again
12 for any reason including anyone changing counsel. Do you
13 understand that, Ms. Ryba?

14 THE DEFENDANT RYBA: I do.

15 THE COURT: I think Mr. Snook has made some persuasive
16 arguments during this conference call, but should you decide you
17 want to hire a different lawyer, I'm not continuing this case
18 again. Do you understand me?

19 THE DEFENDANT RYBA: Yes, Your Honor, I do.

20 THE COURT: Mr. Nagy?

21 MR. NAGY: I've previously talked to my client, I
22 haven't talked to her this morning, but she has been listening
23 in. We do not oppose a continuance. We would waive speedy trial
24 issues through the June 21st court date that would be scheduled
25 if a continuance was granted.

1 THE COURT: Okay. Ms. Taylor, do you understand and
2 agree to that?

3 THE DEFENDANT N. TAYLOR: Yes, Your Honor.

4 THE COURT: Mr. Parker?

5 MR. PARKER: Yes, Your Honor, we would agree to the
6 continuance to the June 21st date and we would waive speedy
7 trial.

8 THE COURT: Mr. Taylor, do you agree to that?

9 THE DEFENDANT E. TAYLOR: Yes, Your Honor, I do.

10 THE COURT: Okay. All right. I'm sorry, was that
11 Mr. Hoffman?

12 MR. HOFFMAN: Yes, Your Honor. I just wanted to know
13 if I could make one more statement.

14 THE COURT: Sure. Absolutely.

15 MR. HOFFMAN: Before the court grants, I'm not sure
16 this is where the court is going, but before the court does make
17 its decision, this is something I tried to interject earlier and
18 I haven't been able to interject, in my conversations with the
19 lab yesterday they made it very clear to me that it would be
20 possible, depending on the chemicals that are there, it would be
21 possible that they could get this quantitative analysis done in a
22 matter of days. In other words, it might spill into Monday,
23 Tuesday, and they might have it done mid-week. They said it
24 just, they could get it done fast, or it could, depending on
25 what's in it, take longer than that. But in talking with them it

1 sounded like it was a real possibility that perhaps early in the
2 week. One guy even said maybe, maybe Sunday, Monday, but early
3 in the week we could have the quantitative analysis done that the
4 defense is asking for.

5 So, I would ask the court to just consider that as an
6 alternative and compromise to everyone. Defense has requested
7 this quantitative analysis at the ninth hour. It sounds like the
8 lab might be able to pull it off by just adding a couple extra
9 days, not a week, not two. So, it might be worth considering to
10 see if the lab could get it done, and we could start on Tuesday
11 or Wednesday instead of moving it to the middle of the summer,
12 which just disrupts everybody. We could keep the trial on
13 schedule and give the defense what they're asking for, assuming
14 that the lab could do that.

15 I just wanted the court to know that the lab highlighted
16 that for me yesterday as a possibility, and I think we're
17 probably at the point now where, you know, they'll be able to
18 look at the substances and make a prediction and say, "No, this
19 is going to take us a week or two, or maybe we can have it done
20 by Tuesday." We could probably still get the trial done in the
21 three week estimated time. Just a thought.

22 THE COURT: Well, of course, I don't know, and you guys
23 are the ones talking to the lab. Mr. Cook, that was one of the
24 things I had mentioned early on. Why couldn't we go forward next
25 week? And Mr. Cook, do you have a sense when they could finish

1 this quantitative analysis?

2 MR. COOK: They couldn't tell me, Judge. They hoped
3 they could have it done, like Mr. Hoffman said, by middle of next
4 week, but they couldn't, couldn't tell me that they would. So,
5 that's what I can say.

6 Like I said, to get started without having it in hand, I
7 think, would be detrimental to my client's case, the uncertainty
8 on how we intend to proceed on a major piece of evidence.

9 MR. HOFFMAN: To be clear, I'm not suggesting we start
10 without the labs; I'm suggesting it's possible the lab could
11 finish it. In other words, we won't pick a jury to start until
12 Tuesday or Wednesday if the lab says they can get it done in that
13 time, and in that way we're still operating in the same time
14 frame. We're planning on roughly 60 witnesses. There's a lot of
15 things in play here. And I think if we can get the defense what
16 they are asking for, which is the quantitative analysis of these
17 exhibits, and still keep the trial in place, you know, starting a
18 day or two late, then everybody wins, and we don't have to get a
19 continuance.

20 MR. COOK: If I can throw in, in talking to these labs
21 I've not talked to them about being able to come and testify at
22 trial. We were just trying to see if we could expedite. Quite
23 frankly, if the court does continue the case, I intend to go back
24 through and call the labs in to choose which one I want to do my
25 independent analysis. I'll tell you the one we're talking about

1 right now was exponentially more expensive, I don't know why, the
2 pricing was just very high relative to the other places I was
3 talking to.

4 So, again, this is CJA, this will all be passed on to the
5 court, I understand that, but if the continuance is granted
6 within a day or two I will have identified the independent lab
7 that we would like to have do it, and hopefully somebody closer,
8 somebody not quite so extraordinarily expensive, and be ready for
9 trial to testify in the defense of the case. I'd just throw that
10 in while we're talking.

11 THE COURT: All right. Thank you. Does anybody else
12 have anything they'd like to add?

13 MR. SNOOK: No, Your Honor.

14 MR. HOFFMAN: No, Your Honor.

15 THE COURT: Given the uncertainty, all the factors that
16 I'm considering with regard to the trial set for Monday,
17 March 6th, given the fact that all the defendants have waived
18 speedy trial, and any defense or objection to a continuance based
19 on the Constitution, Sixth Amendment or under the Speedy Trial
20 Act, given the fact that, you know, we just don't know right now,
21 today, three days before trial, when this quantitative analysis
22 could be performed.

23 MR. HOFFMAN: Your Honor, what if we could get you an
24 answer in a couple of hours? What if we could get you an answer
25 today? What if we could try to get the lab to say yes or no?

1 The amount of taxpayer dollars that are going to be wasted by
2 this continuance, I mean, it's going to pale in comparison to the
3 amount of money that the CJA panel is going to spend on this
4 analysis.

5 THE COURT: Well, let me ask you this question,
6 Mr. Hoffman. Let me ask you this question. Is the Government
7 willing to stipulate the admissibility of whatever lab test they
8 get out of Michigan without having someone come here?

9 MR. HOFFMAN: Absolutely. We will stipulate to the
10 accuracy of the Certificate of Analysis. If it comes in and it
11 says it's jelly beans, we will stipulate to that.

12 THE COURT: All right. I'm going to take this matter
13 under advisement until 2:00 p.m., okay? If, if I get a
14 definitive word back that, that this quantitative analysis can be
15 performed and the defense has their evidence, and the Government,
16 and the Government stipulates to the admission of this
17 quantitative analysis, and they can get it done so that trial can
18 start on Wednesday, March 8th, okay, no later than that, because
19 we've got calendars that are all backed up as a result of this,
20 then if you can get me that information, Mr. Hoffman, by
21 2:00 then I'll issue an order this afternoon one way or the
22 other.

23 MR. COOK: If I could just jump in here, scheduling, I
24 mean Mr. Hoffman jumped in on the ruling, if I could just jump in
25 here and say I'm in front of Judge Conrad in Charlottesville at

1 2:00; and secondly, this is an independent analysis at the
2 defendant's request, and I appreciate Mr. Hoffman doing what he's
3 done to identify the lab, and so forth, but I'm going to have
4 conversations with the lab that Mr. Hoffman should not be privy
5 to. Ordinarily, he wouldn't be had we not requested his
6 assistance, but he's now engaged in conversations, substantive
7 conversations with my independent lab about what they're doing,
8 and that's something that could be detrimental to my client.

9 So, I am very willing to have this conversation with the
10 lab, but if, but it's not Mr. Hoffman's job to tell the lab what
11 they can and cannot do for me. I just wanted to be clear about
12 that.

13 MR. HOFFMAN: I'm not exactly sure where that's coming
14 from. We've been contacting labs asking if they can do the job,
15 and then when Mr. Cook has asked to have private conversations
16 with them we've allowed them to do so.

17 Your Honor, we can absolutely get in touch with the lab and
18 just ask them if they are capable of completing the quantitative
19 analysis by 2:00. We can do our best to give answers to the
20 court by then, and get back to the court. I have to be in the
21 same hearing that Mr. Cook does at 2:00, it's a case he and I are
22 both parties to, so, you know, I'm facing the same challenges as
23 Mr. Cook. But I think I can get him on the phone and ask, I can
24 get them on the phone and ask them if they can get it done by
25 Wednesday, and just let the court know. From our perspective we

1 think we can accomplish that.

2 MR. COOK: He's saying I can make the call, I can have
3 my conversation with my independent lab and report back to the
4 court?

5 THE COURT: I think that's appropriate, Mr. Cook. I
6 don't think Mr. Hoffman has to be in the loop anymore. It's your
7 independent lab, your conversation with whether or not they're
8 able to get done what they can get done. You have a conversation
9 with them and report back to the court by today. I don't know
10 how long your hearing is going to go with Judge Conrad, but you
11 report back to me today, and I'll take the matter of a
12 continuance under advisement until I hear back from you,
13 Mr. Cook. And once I hear back from you then I will issue a
14 ruling.

15 It is my inclination, given the fact that the defendants
16 believe this evidence is material to their defense, to, to go
17 ahead and, and continue this matter to give them an opportunity
18 to have this chemical testing done. This is all, and it's
19 Mr. Hoffman's perspective that this is all done for delay, but I
20 credit Mr. Cook at his word that it is not being done for delay,
21 it is being done for strategic reasons, and I have no reason, in
22 all my years of dealing with Mr. Cook, I have no reason to
23 believe that he's being anything other than perfectly candid with
24 me. So, I, I am concerned about the evidence that's coming along
25 at such a late date right before trial, that I am concerned that

1 if I don't get this quantitative testing done that the defendants
2 raised, that I may have to try this case again if, if there's a
3 conviction and the Fourth Circuit believes that I should have
4 allowed them to do this.

5 I do understand the cost and burden to the Government, and I
6 understand that nothing good comes from a continuance. But that
7 is my inclination. But, I will allow Mr. Cook one more
8 opportunity to see if this quantitative analysis can be done
9 before the start of trial on Wednesday, March 8th. I'll move the
10 trial two days to allow that, but I think the problem is if I
11 move it any more we get into the situation Mr. Nagy was talking
12 about yesterday with all the other stuff he's got backed up, and
13 other counsel have backed up. I appreciate that.

14 So, let's make one last effort this afternoon, see if they
15 can get it done by Monday or Tuesday, the quantitative analysis
16 done. And it's your expert, your analysis, and you let me know.
17 I'm taking you at your word, and as all counsel know the
18 credibility of counsel with the court is something that is
19 critically important, so I'm taking you at your word. And you
20 check to see whether or not they can get it done by Tuesday. And
21 if you tell me that you can get it done, then we'll start on
22 Wednesday. If you tell me they can't get it done, or they can't
23 assure you that it will be done, then I'm going to move this case
24 until June 21st.

25 So, Mr. Hoffman, I'm going to give, I thought, you a

1 compromise. You suggested another, we'll go a couple more days
2 to see if we can get it done, and I appreciate everyone's
3 perspective on this. But, you know, I don't really think this is
4 a situation where the defense is coming in at the last minute and
5 saying we thought of a new defense and we need to have a
6 continuance. This is all a result of the delay in these
7 substances coming out of Hong Kong.

8 So, I don't fault the Government, I don't fault the defense.
9 I want this case to go more than anybody else, probably, because
10 I've got a lot of things backed up, but let's give them their
11 defense and let's see if we can get this done.

12 Excuse me, Mr. Hoffman, Mr. Cook, I want to hear from you
13 today.

14 MR. COOK: Yes, sir, I'll report back.

15 THE COURT: Mr. Hoffman, did you want to say something
16 else sir?

17 MR. HOFFMAN: Yes, sir. It's for the benefit of the
18 court and Mr. Cook. Since I am now, as I understand, I'm going
19 to stay out of the communications with this lab, if they contact
20 me I'll simply refer them to Mr. Cook. But I did want to share
21 some information. Yesterday they said what would be
22 determinative of their decision are obviously what substances
23 are, are detected or are in the chemicals, themselves. Basically
24 what they told me, there are two substances that need to be run
25 through the quantitative analysis. That will obviously be much

1 faster than three or four or five. So, I say that to share this,
2 that I believe if, if the lab needs to know what kind of
3 substances are there, or how the DEA may very well have been to a
4 point in their analysis, because they've had the exhibits for a
5 couple of days now, they may be able to share that information,
6 if requested, with Cayman to help Cayman Chemicals give Mr. Cook
7 his answer.

8 So, if Mr. Cook calls and Cayman says we don't know what
9 substances we're looking at, perhaps the DEA lab, if it's
10 helpful, we can find out whether the DEA lab has identified those
11 substances yet, and they could share the information with
12 Mr. Cook or with the lab to give a solid answer.

13 THE COURT: Mr. Hoffman, that's a fair point. If the
14 DEA lab has done some analysis already, can you get them to
15 provide that to defense counsel?

16 MR. HOFFMAN: Yes, I can call and ask, and if they've
17 done, if they've got anything done in a certifiable form I can
18 share that with Mr. Cook, and that might help in his discussions
19 with Cayman and help them better predict how long it will take.

20 THE COURT: Okay.

21 MR. HOFFMAN: I'll, for my part I'll go ahead and reach
22 out to the lab folks, and I'll let Mr. Cook deal with Cayman
23 going forward.

24 THE COURT: As soon as I know -- the other question I
25 have for you, Mr. Hoffman, do you want me to sign this order

1 authorizing the DEA to provide this stuff to Cayman, or do you
2 want me to hold off and wait until we hear from Mr. Cook?

3 MR. HOFFMAN: I'd say, like Mr. Cook said a moment ago,
4 and I might have misunderstood him, but if there is a continuance
5 granted he may consider a different lab so maybe it's prudent to
6 wait. Is that right, Mr. Cook?

7 MR. COOK: That's right.

8 THE COURT: All right. Mr. Hoffman is going to contact
9 the DEA to see if they have any further information that might
10 assist Cayman in making a decision as to whether they can get
11 this information for us, Mr. Cook is going to reach out, and any
12 other counsel who are willing to talk, defense counsel, like
13 Mr. Snook or any of the others, if you want to weigh in on this,
14 talk to the Cayman folks today, get me an answer by 5:00, and I
15 will enter an order. All right?

16 MR. COOK: Thank you.

17 MR. HOFFMAN: Yes, sir.

18 THE COURT: I'm trying to do what I can to save this
19 trial date, but I also want to make sure the defendants have the
20 opportunity to present evidence consistent with their defense.
21 So, let's try. If it doesn't work, then if we can't get it done
22 by Wednesday, we'll move it to June, and we'll have a 90 day
23 continuance. And I will not continue this case again. All
24 right. Thank you all.

25 MR. HOFFMAN: Thank you, Your Honor.

1 MR. COOK: Bye-bye.

2 (Proceedings concluded at 11:55 a.m.)

3
4 CERTIFICATE

5
6 I certify the foregoing is an accurate transcript
7 from the record of proceedings in the above-entitled
8 matter.

9
10
11 6/6/17
Date

/s/ Bridget A. Dickert
Bridget A. Dickert